

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

**AMENDMENT #2 TO THE CONTRACT BETWEEN
THE CITY OF DURHAM AND
KING MANAGEMENT NC, LLC
(FORMERLY KING & MARTIN PROPERTIES, LLC) FOR
MANAGEMENT OF THE CITY-OWNED YARD WASTE AND COMPOST FACILITY**

THIS AMENDMENT ("Amendment #2") is made and entered as of this _____ day of May, 2014, by and between the City of Durham, a North Carolina municipal corporation ("City"), and King Management NC, LLC (formerly King & Martin Properties, LLC), a corporation organized and existing under the laws of North Carolina ("Contractor").

Amendment to the Existing Contract. The contract between the parties entitled "Contract Between the City of Durham and King Management NC, LLC for Management of the City Owned Yard Waste and Compost Facility", dated May 13, 2012 (hereinafter "CONTRACT"), has had one amendment date May 13, 2012 ("Amendment #1") and is hereby further amended as follows:

1. Section 1, entitled "Background, Purpose, and Definitions", shall delete the definition "Contractor: King & Martin Properties, LLC" and replace it with the following:

"Contractor: King Management NC, LLC".

2. Services and Scope to Be Performed. The following new paragraph is added as Subparagraph 8:

Change to the City's Operational Business Model: "Should the City change its operational business model whereby the proposed change or actual change affects the Scope of Work currently being performed by the Contractor, the City and the Contractor will renegotiate the Scope of Work. The renegotiation of the Scope of Work will incorporate any changes that directly impact the work that the Contractor will perform for the City."

3. Section 3, entitled, "Term" shall have the following paragraph added at its end:

"The initial two year term of this Agreement commenced on May 13, 2010, and expired May 12, 2013. On May 13, 2012 the City exercised its option to renew this Contract for two additional years (Amendment #1), which expires on May 13, 2014. By this Amendment #2, the City is again exercising its option to renew this Contract for two (2) additional years, being the second of the three two-year renewal terms provided for in Section 3 of the original Contract. The Contractor acknowledges and agrees to this renewal term, which shall expire on May 13, 2016 at 12:59 PM."

4. In Section 5, entitled, "Cost and Compensation", Subparagraph 1 entitled, "Compensation" is hereby replaced with the following:

"The City shall pay Contractor for the Work as follows: \$18.00 per ton for yard waste and clean wood waste weighed at the City scale. The price per ton will be adjusted annually on the anniversary date of the contract beginning May 14th, 2014, with the change calculated by

the price per ton being multiplied by the percentage of increase or decrease during the previous twelve months ending April 30th in the Consumer Price Index (CPI), South Urban Consumers-All Items Category, as published by the U.S. Bureau of Labor Statistics. The City shall not be obligated to pay the Contractor any payments, fees, expenses, or compensation other than those authorized by this section. CPI adjustments will be capped at 5 percent over the Contract term.” The cost of this contract shall not exceed \$273,156 per year.

5. A new Section 16, entitled, “E-Verify Compliance”, will be added as follows:

“The Contractor represents and covenants that the Contractor and its subcontractors comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (NCGS). The City is relying on this E-Verify Compliance section in entering into this Contract. The parties agree to this section only to the extent authorized by law. If this section is held to be unenforceable or invalid in whole or in part, it shall be deemed amended to the extent necessary to make this Contract comply with NCGS 160A-20.1(b).”

IN WITNESS WHEREOF, the City and the Contractor have caused this Amendment to be executed by their duly authorized officers under seal.

KING MANAGEMENT NC, LLC

By: _____ (SEAL)
Manager

CITY OF DURHAM

By:

State of _____

ACKNOWLEDGMENT BY
LIMITED LIABILITY COMPANY

County of _____

I, a notary public in and for said county and state, certify that _____ personally (1) appeared before me this day, (2) stated that he or she is a manager of KING MANAGEMENT NC, LLC, a limited liability company organized and existing under the laws of the State of _____, (3) acknowledged that the foregoing contract or agreement with the City of Durham carries on the company's business in the usual way, and (4) acknowledged the due execution, under seal, of the contract on behalf of the company. This the _____ day of _____, 20_____.

My commission expires:

Notary Public

ACKNOWLEDGEMENT BY
THE CITY OF DURHAM

State of _____

County of _____

I, _____, a notary public for said county and state, certify that _____ (1) appeared before me this day, (2) stated that he or she is a manager of _____, a limited liability company, (3) acknowledged that the foregoing contract with the City of Durham and the Performance Bond with respect to the contract carry on the company's business in the usual way, and (4) acknowledged the due execution of the contract and the Performance Bond on behalf of the company.

This the _____ day of _____, 20_____.

My commission expires:

Notary Public